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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,553	02/27/2006	Dario Rea	02334900316	7752
4372	7590	12/23/2008		
ARENT FOX LLP				
1050 CONNECTICUT AVENUE, N.W.				
SUITE 400				
WASHINGTON, DC 20036				
EXAMINER				
LOW, LINDSAY M				
ART UNIT		PAPER NUMBER		
3721				
NOTIFICATION DATE		DELIVERY MODE		
12/23/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com

IPMatters@arentfox.com

Patent_Mail@arentfox.com

Office Action Summary

Application No.

10/569,553

Applicant(s)

REA ET AL.

Examiner

LINDSAY M. LOW

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment received on September 22nd, 2008.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Konig et al. (5,441,342) for the same reasons set forth in paragraph 4 of the previous office action mailed April 23rd, 2008.

Regarding the amendments to claims 8, it should be noted that the apparatus is driven by a main motor 7'; therefore, Konig's device is deemed automatic. In addition, note that Konig's device is capable of making infusion packets and that the dosing device is capable of feeding an infusion product.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konig et al. (5,441,342) in view of Niemi (2,163,052), Debuit (2,778,450), and McClellan et al (5,732,589) for the same reasons set forth in paragraph 6 of the previous office action, *supra*.

Regarding the amendments to claim 7, it should be noted that the apparatus is driven by a main motor 7', therefore Konig's device is automatic. In addition, note that Konig's device is capable of making infusion packets and that the dosing device is capable of feeding an infusion product.

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romagnoli (4,870,808) in view of Konig et al (5,486,048) for the same reasons set forth in paragraph 7 of the previous office action, *supra*.

Regarding the amendment to claim 8, Romagnoli's device is inherently automatic as can be seen in the device shown in Fig. 1. In addition, Romagnoli's device is used for making infusion packets (see abstract).

7. Claims 7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romagnoli (4,870,808) in view of Konig et al., (5,486,048) as applied to claims 8 and 9 above, and further in view of Niemi (2,163,052), Debuit (2,778,450), and McClellan et al (5,732,589) for the same reasons set forth in paragraph 8 of the previous office action, *supra*.

Response to Arguments

8. Applicant's arguments filed September 22nd, 2008 have been fully considered but they are not persuasive.

Applicant contends that Konig cannot be combined with Romagnoli because Konig's camming device is more complex than the Romagnoli device. However it should be noted that Konig is relied upon to show the use of the crank mechanisms to drive the pistons. It is acknowledged that Konig's device operates differently from Romagnoli's device. However, both devices have pistons that slide axially in order to dispense a product. Therefore, it would be within the abilities of one having ordinary skill in the art at the time of the invention to provide first and second cranks as taught by Konig in order to provide a more controlled movement of the pistons as they slide axially in a radial direction.

For the reasons above the grounds of rejection are deemed proper.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. LOW whose telephone number is (571)272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. M. L./
Examiner, Art Unit 3721
/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit 3721
12/15/2008